

**EXHS**

*TAZ*

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BELL, INC.,

Cancellation No. 31904

Petitioner,

-VS-

BELL PACKAGING CORP.,

**ORIGINAL**

Respondent.

12-26-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #72

\* \* \* \* \*

T E S T I M O N I A L   D E P O S I T I O N   O F

MARK GRAHAM

\* \* \* \* \*

Maxine J. Risty, RPR  
Brandon, SD      (605) 757-7144

*Cef*

1                   It is hereby agreed that the testimonial  
2                   deposition of Mark Graham be taken at this time and  
3                   place, that is, at the office of Bell, Inc., 1411 D  
4                   Avenue, Sioux Falls, South Dakota, on the 6th day of  
5                   December, 2002, commencing at the hour of 2:00 p.m.;  
6                   and said testimonial deposition taken before Maxine J.  
7                   Risty, RPR, a Notary Public within and for the State of  
8                   South Dakota.

9                   \* \* \* \* \*

10  
11                   MARK GRAHAM,  
12                   called as a witness, having been first duly sworn, testified  
13                   as follows:

14                   (The following were written questions propounded  
15                   by Mr. J. W. Gipple.)

16           Q     What is your name, age, and citizenship?

17           A     Mark, M-A-R-K, S. Graham, G-R-A-H-A-M; 57; American.

18           Q     What, if any, relationship do you have to the  
19                   petitioner in proceeding, Bell, Incorporated?

20           A     I am the major stockholder, president, and chief  
21                   executive officer of Bell, Incorporated.

22           Q     When did you establish such relationship with Bell,  
23                   Incorporated?

24           A     I purchased Bell, Incorporated, in 1976. At that time,  
25                   it was known as Bell Paper Box, Incorporated.

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Maxine J. Risty, RPR  
Brandon, SD     (605) 757-7144

1 Q Are you familiar with the business of Bell,  
2 Incorporated?

3 A Yes.

4 Q What is that business?

5 A Bell, Incorporated, is a company that designs and  
6 manufactures paperboard packaging products.

7 Q More specifically, what products does Bell,  
8 Incorporated, produce and/or sell?

9 A We produce and sell many different products across  
10 wide-ranging areas of markets, one of which would be  
11 courier overnight letter envelopes such as a Federal  
12 Express envelope, a Priority or Second Day U.S. Postal  
13 Service envelope, or the same type of envelope for  
14 United Parcel Service. We produce consumer goods  
15 packaging for retail sale packages, for microwave  
16 popcorn, lawn and leaf and trash bags, we produce  
17 packaging for convenience foods, for carry-out, for hot  
18 dogs, pizzas, et cetera.

19 Q In what geographic areas does it sell?

20 A We sell to the United States, Canada, Mexico, export to  
21 Europe, South America.

22 Q Since your involvement with Bell, Incorporated, has  
23 there ever been a period when it ceased commercial  
24 activities?

25 A No.

1 Q In dollar terms, what has been the annual sales of  
2 Bell, Incorporated, for the past ten years?

3 A It has grown from an annual sales of \$18 million to  
4 presently we are in the 30 plus million per year in  
5 revenue.

6 Q In dollar terms, what has been the annual advertising  
7 budget of Bell, Incorporated, for the past ten years?

8 A This is a question that will require a little  
9 explanation. We are not a -- we do not market to the  
10 general public so therefore we do not advertise per se  
11 on radio, television, newspapers, magazines. We are a  
12 company who markets business to business or as they say  
13 B to B; therefore, we have a sales force which calls  
14 face-to-face one-on-one with our potential and our  
15 existing customers. This budget would also include  
16 trade shows, promotional brochures, maybe some direct  
17 mail, et cetera, things like that. So including all of  
18 those things, which is what we refer to as our sales  
19 and marketing budget, for the last ten years we have  
20 spent nearly \$12 million total or an average of 1.1 or  
21 almost \$1.2 million per year for the budgets for those  
22 categories I had previously mentioned.

23 Q I hand you this set of documents marked Exhibit A and  
24 ask if you can identify them and explain what they are.

25 A They appear to be the top cover of the tax returns for

1 the last ten years or the top few pages I guess.

2 Q Describe the ways in which Bell, Incorporated, uses and  
3 has used the names BELL and BELL PAPER BOX.

4 A It's the name of the company so it is used on all  
5 letterheads, invoices, commercial paper, and all  
6 communications with our customers. It's featured in  
7 any of our advertising and promotional materials,  
8 placed on business cards. Bell is the name by which we  
9 are known to our customers and to the trade. This is  
10 true as to all the years I've been involved with the  
11 company.

12 Q I hand you a set of documents marked Exhibit B and ask  
13 if you can identify them and explain what they are.

14 A These are samples of some of our typical use  
15 promotional materials that we have used extensively  
16 over the last ten years.

17 Q Does Bell, Incorporated's commercial activities include  
18 the service of custom designing paperboard containers  
19 for specific customer's needs?

20 A Yes.

21 (Proceedings adjourned.)

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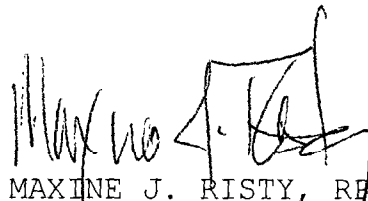
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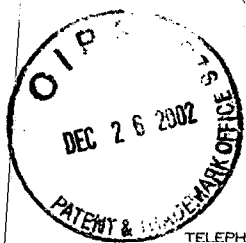
COUNTY OF MINNEHAHA )

I, MAXINE J. RISTY, Court Reporter and Notary Public,  
do hereby certify that the witness was first duly sworn by  
me to testify to the truth, the whole truth and nothing but  
the truth relative to the matter under consideration and the  
foregoing pages 1-5, inclusive, are a true and correct  
transcript of my stenotype notes.

In testimony whereof, I have hereto set my hand and  
official seal this 18<sup>th</sup> day of December, 2002.



MAXINE J. RISTY, RPR  
Court Reporter and Notary Public  
My Commission Expires: October 14, 2005



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December 24, 2002

12-26-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #72

Trademark Trial and Appeal Board  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Re: **Bell, Incorporated v. Bell Packaging Corporation**  
**Cancellation No. 31904**  
**Our Ref.: Z-1604**

Dear Sir:

Enclosed please find the original copy of the TESTIMONIAL DEPOSITION OF MARK GRAHAM WITH EXHIBITS taken by deposition by written questions on December 6, 2002, for the above-identified Cancellation proceeding.

If you have any questions, please let us know.

Respectfully submitted,

GIPPLE & HALE

J. W. Gipple

J.W. Gipple

JWG/llb  
Enclosure

CP